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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,722	02/25/2002	Frederic Gaviot	PHFR 010020	8254
24737 7590 12/17/2010 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
HOSSAIN, FARZANA E				
ART UNIT		PAPER NUMBER		
2424				
MAIL DATE		DELIVERY MODE		
12/17/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/084,722

Applicant(s)

GAVIOT ET AL.

Examiner

FARZANA HOSSAIN

Art Unit

2424

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1-2.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/FARZANA HOSSAIN/
Primary Examiner, Art Unit 2424

Continuation of 11. does NOT place the application in condition for allowance because: The applicant argues that the limitation "said control information including location information of the at least one particular event in said input broadcast program" is supported by the application by providing a new interpretation of the language - which now that location means a position in the broadcast program (Page 6).

The arguments are not persuasive all claims (including Claim 7) as the specification supports start and end times not location. Location has an ordinary mean of a place - the applicant's new interpretation in the arguments will not overcome the rejection - timing information is not location information. Note: Slezak has support for the limitation (either as timing information or location information) - see below.

Regarding Claim 7, the applicant argues that Slezak discloses signals are sent to the user equipment to enable the user to choose a particular subscription, the user equipment including "switching means" enabling the user to choose the particular subscription (Page 10). The applicant argues that Slezak does not disclose provider sending the same information signal to each user because a user chooses a subscription and the broadcast signal either has a particular event or not (Pages 9-10). Further, the applicant argues that Slezak does not disclose the information signal (transmitted to each user) does not include control information ("including location information of said at least one particular event") and a broadcast signal having a particular event (Page 10). The applicant argues that Slezak does not disclose at the user, the received broadcast signal is not processed by means for selecting, using the control information, to form an output broadcast signal optionally not including the particular event (Page 10). The applicant argues "the Examiner is completely ignoring the requirements as set forth by the CAFC. ... The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)." While the Examiner has indicated that Slezak includes "selection means", the Examiner then goes on to identify "(Column 9, lines 20-23, Column 8, lines 18-39, remote control unit, keyboard, mouse, Column 3, lines 63-67, Column 4, lines 1-4, Figure 1,504, Figure 7). The remote control unit, keyboard, mouse, are merely used to select the desired subscription, noted in the preamble of claim 7. Quite clearly, a remote control unit, a keyboard, a mouse do not meet the limitations as set forth in claim 7,

In response to the arguments, the examiner respectfully disagrees. Claim 7 does not disclose a plurality of users - therefore it does not apply to Claim 7 (see claim 1). In the last office action filed 09/14/2010 the applicant argued "Then at a particular user's location, upon receipt of the information signal, the selecting means, under control of the control information, operates on the input broadcast signal to generate an output broadcast signal which may or may not include the particular event, depending upon the chosen subscription of the user" (Page 9). Based on this interpretation, Slezak discloses the control information including location information of the at least one particular event (Column 4, lines 15-20). Based on the new argument presented in the after final response of position information, Slezak discloses the control information including location information of the at least one particular event (Column 3, lines 45-51, 60-62, Column 10, lines 14-17, 26-35, Column 11, lines 5-20).

Slezak discloses offering a plurality of subscription and user making a choice and if the chosen subscription selectively includes an event or not; if the user is paying for the program at full cost, then advertising is not included (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4). Slezak discloses generating an information signal which has control information consisting essentially of control information and an input broadcast program (Column 8, lines 18-39, Column 9, lines 6-10, Column 3, lines 63-67, Column 4, lines 1-4). The choice of a subscription depends on the choice of whether a user wants to view a free, less expensive or more expensive programming. The subscription defines whether a program will include a particular event (or advertisement) or not. The selection means output a program with particular event or not based on the subscription selected by the selection means (Column 8, lines 18-39, Column 9, 6-10). Slezak discloses the selection means configurable by a provider of the information signal to be responsive to the control information on the basis of the subscription chosen by the user (Column 9, lines 20-23, Column 8, lines 18-39, remote control unit, keyboard, mouse, Column 3, lines 63-67, Column 4, lines 1-4, Figure 1, 504, Figure 7). Slezak discloses that the set top box in conjunction with an input selects via control information or configurable by a provider (Column 5, lines 5-17, Figure 5, Figure 10).

Regarding Claim 1 (and dependent claims), see above for response to arguments. Slezak discloses a plurality of subscribers but does not specifically disclose each of a plurality of viewers is receiving the information signal. Eyer discloses a provider differentiating among a plurality of subscriptions originated by a plurality of users to service in respect of processing of one or more input broadcast programs, each input broadcast program comprising at least a particular event (Column 4, lines 11-17, Column 5, lines 46-56); each user making a choice of subscription (Column 6, lines 56-61, Column 17, lines 13-21 - each paying user of a plurality of paying subscriber or each nonpaying user of a plurality of nonpaying subscribers) and at each user's location, operating the input broadcast program comprising at least one particular event using the means for selecting in dependence on the control information to selectively provide an output broadcast program, in dependence with means for selecting according to the chosen subscription (Column 16, lines 28-60, Column 17, lines 13-21, Columns 18-19, Table 1). Therefore, Eyer discloses a plurality of users receiving the same information signal.

Regarding Claim 3, the applicant argues that there is no description as to how Akamatsu can operate with Slezak to perform the limitations ("said device is configured to perform the acts of accelerated reading of a recorded program" (Page 12). The applicant further argues that Akamatsu does not supply what is missing in Slezak (Page 12). In response to arguments, the examiner respectfully disagrees. Slezak discloses allowing accelerating of a program and not allowing or deactivating the accelerating based on the subscription (Column 9, lines 22-24, 53-60). Slezak does not explicitly disclose that the pay program can be recorded. Akamatsu allows a user to record a pay program (Column 7, lines 16-19). Slezak discloses a user system with a set top box or receiver (Figure 1, 504). Akamatsu discloses a system with a receiver and recorder (Figure 1, 100, 120). The purpose to allow a user to record pay programs instead of in the past when users illegally recorded the programs so that users are no longer inconvenienced to watch a pay program at time it is broadcasted (Column 14, lines 13-30, Column 2, lines 8-22). See response above..